IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.48 of 1993
Date of decision: 26.10.2006

The Commissioner of Income Tax (Central), Ludhiana.

---Applicant

Vs.

M/sMarkanda Vanaspati Mills Ltd., Shahbad, Markanda.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL

HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. Yogesh Putney, Advocate
for the revenue.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, New Delhi, arising out of its order dated 06.01.1993 in I.T.A. No.414/Del/1989 in respect of assessment year 1984-85:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order passed by the CIT (Appeals) deleting the addition made by the Assessing Officer on account of the sales-tax CST collected by the assessee from the customers but not deposited to the Govt. Account by the end of the accounting period by resort to the provisions of section 43B?"

We find that the issue is covered against the revenue and in favour of the assessee by the judgment of Hon'ble Supreme Court in ***Allied Motors (P) Limited v. Commissioner of Income Tax*** 1997 (224) ITR 677.

Following the above judgment of the Hon'ble Supreme Court, we have decided the issue against the revenue and in favour of the assessee vide our order dated 5.9.2006 in ITR No.94 of 1996, ***The Commissioner of Income tax (C), Ludhiana v. M/s Avery Cycle Inds. Pvt. Limited, Ludhiana.***.

Accordingly, the question is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

October 26, 2006
ashwani

(RAJESH BINDAL)
JUDGE